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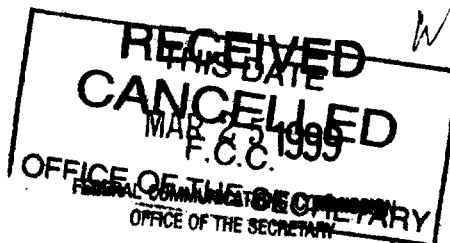
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**RECEIVED**  
**MAR 24 1999**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Ex Parte Communication**

In the Matter of Amendment of Section 2.106 of the Commission's Rules  
to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service  
ET Docket No. 95-18; RM-7927/PP-28

Dear Ms. Salas:

In separate ex parte communications filed with the Commission, the Association for Maximum Service Television, Inc./National Association of Broadcasters ("MSTV/NAB")<sup>1</sup> and the American Petroleum Institute ("API")<sup>2</sup> question the accuracy of certain statements made by

<sup>1</sup> Ex Parte Communication from the Association for Maximum Service Television, Inc. and the National Association of Broadcasters to Ms. Magalie Roman Salas of March 12, 1999.

<sup>2</sup> Ex Parte Letter to Correct the Record from the American Petroleum Institute to Ms. Magalie Roman Salas of March 17, 1999.

Ms. Magalie Roman Salas

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the ICO USA Service Group ("IUSG")<sup>3</sup> in its Consolidated Reply to Comments and Oppositions<sup>4</sup> filed in the above-referenced proceeding. The IUSG respectfully responds to these communications in order to clear up possible misunderstandings regarding the accuracy of the challenged statements.

In its ex parte communication, MSTV/NAB maintained that the IUSG misleadingly concluded that there was no credible opposition to the IUSG proposals to freeze BAS license applications and to condition new BAS licenses and renewals granted after March 14, 1997 on the licensee's payment of its own relocation expenses. To prove its point, MSTV/NAB cited to three pleadings in which it objected to the IUSG proposals. However, two of these three pleadings<sup>5</sup> were filed on March 4, 1999 — long after the February 22, 1999 filing deadline for the comments which were the subject of the IUSG Consolidated Reply. In addition, the objection raised in the third pleading,<sup>6</sup> although filed on February 22, 1999, was shown to be groundless by the IUSG in its Consolidated Reply — a fact that MSTV/NAB ignores.<sup>7</sup> Thus, in its Consolidated Reply, the IUSG accurately stated that, as of the applicable February 22, 1999 filing deadline to which it was responding, no credible opposition existed to its BAS licensing proposals.

In its ex parte communication, API maintained that the IUSG erroneously stated (1) that the Emergency Petition for Further Limited Reconsideration filed by the IUSG and ICO Services

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<sup>3</sup> The IUSG is comprised of BT North America Inc., Hughes Telecommunications and Space Company, Telecomunicaciones de Mexico and TRW Inc.

<sup>4</sup> Consolidated Reply to Comments and Oppositions, ET Docket No. 95-18, RM-7927, PP-28 (Mar. 8, 1999) ("Consolidated Reply").

<sup>5</sup> Joint Comments on Oppositions to Petitions for Further Limited Reconsideration, ET Docket No. 95-18, at 2 n.3 (Mar. 4, 1999); Joint Reply Comments of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters, ET Docket No. 95-18, at 18-20 (Mar. 4, 1999).

<sup>6</sup> Joint Opposition of the Association for Maximum Service Television, Inc. and the National Association of Broadcasters to Petition for Expedited Reconsideration of BT North America, Inc. et al., ET Docket No. 95-18, at 4 n.12 (Feb. 22, 1999).

<sup>7</sup> See Consolidated Reply at 3-4.

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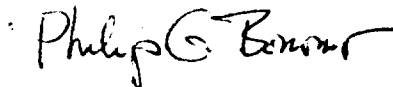
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Limited<sup>8</sup> requested a freeze of all new FS license applications and modifications from the date of the release of the Commission's MO&O in this proceeding, and (2) that no party opposed this request. Although the IUSG agrees that the Emergency Petition did not explicitly request an across-the-board FS license application freeze, the petition did allude to a related request for such a freeze on FS renewals because of the need to establish a limit on the number of 2 GHz incumbents (both BAS and FS) subject to possible relocation.<sup>9</sup> The IUSG believed at the time of the filing of its Consolidated Reply that no parties opposed a total FS freeze; nevertheless, it now understands that API does oppose such a freeze.<sup>10</sup> The IUSG would like to emphasize that at no time did it intend to misrepresent the position of any party to this proceeding regarding the proposal to freeze FS license applications.

The IUSG regrets any inconvenience to the Commission that may result from the filing of this ex parte communication, and hopes that it serves to correct misunderstandings that may exist regarding the accuracy of the IUSG's statements.

Respectfully yours,



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<sup>8</sup> Emergency Petition for Further Limited Reconsideration, ET Docket No. 95-18 (Dec. 23, 1998) ("Emergency Petition").

<sup>9</sup> See Emergency Petition at 8 and Consolidated Reply at ii, 2-3.

<sup>10</sup> See Reply Comments of the American Petroleum Institute, ET Docket No. 95-18 (Mar. 5, 1999) at 9.

## **CERTIFICATE OF SERVICE**

I, Michele S. Gottlieb, do hereby certify that copies of the foregoing Ex Parte Communication were delivered this 24th day of March, 1999, to the following in the manner indicated:

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